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DAN E. ARNETT
CHIEF OF STAFF

September 15, 2005

VIA HAND DELIVERY

Mr. Charles L.A. Terreni
Chief Clerk/Administrator
South Carolina Public Service Commission
101 Executive Center Dr., Suite 100
Columbia, SC 29210

RECEIVED
2005 SEP 15 PM 4:30
SC PUBLIC SERVICE
COMMISSION

Re: Petition of the Office of Regulatory Staff to Request Forfeiture of the Bond and to Request Authority to Petition the Circuit Court for Appointment of a Receiver.
PSC Docket No.: 2005-110-W/S

Dear Mr. Terreni:

Enclosed for filing please find the original and fifteen (15) copies of **The Office of Regulatory Staff's Proposed Order** in the above-referenced docket. Please date stamp the extra copy enclosed and return it to me via our courier.

Also, we have served same on all parties of record and enclose a Certificate of Service to that effect.

Please let me know if you have any questions.

Sincerely,

Benjamin P. Mustian

BPM/rng
Enclosure

cc: Louis Lang, Esquire
Hugh Buyck, Esquire
Jessica J.O. King, Esquire
Julie F. McIntyre, Esquire

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2005-110-WS – ORDER NO. 2005-_____
SEPTEMBER 15, 2005

RECEIVED
2005 SEP 15 PM 4:30
SC PUBLIC SERVICE
COMMISSION

IN RE: Petition of the Office of Regulatory)	
Staff to Request Forfeiture)	
of the Piney Grove Utilities, Inc.)	OFFICE OF REGULATORY STAFF'S
Bond and to Request Authority)	PROPOSED ORDER
To Petition the Circuit Court for)	
Appointment of a Receiver)	

INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (“the Commission”) on a petition of the South Carolina Office of Regulatory Staff (“ORS”) requesting the forfeiture of the bond held by Piedmont Water Company, Inc. (“Piedmont”) which covers the utility services provided by Piney Grove Utilities, Inc. (“Piney Grove”), requesting fines or penalties to be levied against Piney Grove, and requesting the authority to petition the Circuit Court for appointment of a receiver for Piney Grove’s systems. ORS’s petition was filed on April 22, 2005, pursuant to S.C. Code Ann. § 58-5-210 et seq.

ORS subsequently requested that the Commission hold a night hearing to afford members of the public a convenient forum to express their views and concerns about the service being provided by Piney Grove and ORS’s petition. On June 30, 2005, a public night hearing was held in West Columbia, South Carolina at Midlands Technical College – Airport Campus Conference Center. By correspondence, the Commission instructed Piney Grove to notify directly, by U.S. Mail, each customer receiving service by the facilities discussed in ORS’s petition of the

scheduling of the night hearing by mailing each customer a copy of the Notice of Night Hearing. By letter dated June 22, 2005, Piney Grove furnished the Commission with certification demonstrating that the Notice of Night Hearing had been duly mailed to all customers affected by the petition. All Commissioners were present at the night hearing. Also present were sixteen customers of Piney Grove, who testified regarding Piney Grove's service and ORS's petition.

In response to the filing of the petition, on May 16, 2005, the South Carolina Department of Health and Environmental Control ("DHEC") filed a Petition to Intervene in this matter. Mr. D. Reece Williams, IV, and Ms. Elizabeth P. Williams ("Mr. and Mrs. Williams"), acting in their personal capacity, also filed a Petition to Intervene on August 5, 2005.

On August 9, 2005, at 10:30 a.m. and reconvening on August 11, 2005, a public hearing concerning the matters asserted in ORS's petition was held in the Commission's hearing room located at Synergy Business Park, 101 Executive Center Drive – Saluda Building, Columbia, SC. Commissioners John E. Howard, David A. Wright, G. O'Neal Hamilton and C. Robert Moseley, with Chairman Randy Mitchell presiding, heard the matter of ORS's petition. Benjamin P. Mustian, Esquire and Florence P. Belser, Esquire represented the Office of Regulatory Staff. Louis H. Lang, Esquire represented Piney Grove. Julie F. McIntyre, Esquire represented DHEC. Hugh W. Buyck, Esquire represented Mr. and Mrs. Williams. F. David Butler, Esquire served as legal counsel to the Commission.

ORS presented the testimony of Mary Smoak, Customer of Piney Grove; Dennis J. Knight, Customer of Piney Grove; Willie J. Morgan, Program Manager for ORS Water/Wastewater Department; and D. Tracey Wilkes, Environmental Health Manager for DHEC. DHEC presented the testimony of R. Lee Proctor, Project Manager in the Water Pollution Enforcement Section of the DHEC Bureau of Water; Karen L. Ramos, Manager in the Drinking Water

Enforcement Section of the DHEC Bureau of Water; and Sonya Johnson, Environmental Health Manager of the DHEC Environmental Quality Control Department. Mr. and Mrs. Williams did not present any witnesses in this hearing. Piney Grove presented the testimony of Claude R. McMillan, Jr., Engineer for Piney Grove. Mr. Marion Cooper, Ms. Judy M. Jones, Mr. Anthony Downs, Ms. Crystal Cuffie, and Mr. Rick Bryan also testified before the Commission as Public Witnesses.

PRELIMINARY MATTERS

A. PROCEDURAL ISSUES

On May 9, 2005, the Commission issued an order, pursuant to S.C. Code Ann. §58-3-40 (Supp.2004), appointing Joseph Melchers as a hearing officer for this docket granting him “the full authority, subject to being overruled by the commission, to rule on questions concerning the conduct of the case and other matters.”

Originally, this matter was set for hearing on May 26, 2005. On May 3, 2005, Piney Grove filed a Motion for a Continuance and Motion to Sever. Upon consent of the Office of Regulatory Staff, Mr. Melchers granted the Motion continuing the hearing until August 9, 2005. The Motion to Sever was denied.

On August 5, 2005, Mr. and Mrs. Williams filed their Motion for Leave to Intervene. This Motion was not opposed by the parties of record and was granted by the Commission on August 9, 2005, prior to the hearing.

B. MOTION FOR A CONTINUANCE

By written motion filed on the morning of August 9, 2005, Mr. and Mrs. Williams requested a second continuance of the August 9, 2005, hearing. The Commission heard

arguments on the motion by the parties prior to the hearing. The Commission ruled to proceed with the hearing as scheduled, effectively denying the motion for a continuance.

BACKGROUND

Piney Grove is a privately owned company operating water systems and wastewater collection and treatment systems serving residential customers in Lexington and Richland Counties. Specifically, Piney Grove provides water and wastewater service to the Franklin Park neighborhood and water service to the Albene Park neighborhood, both located in Richland County. Piney Grove also provides wastewater collection and treatment services to the Lloydwood subdivision in Lexington County. Mr. Williams is the sole shareholder of Piney Grove, and Mr. and Mrs. Williams serve as President and Vice-President, respectively, of the affiliated corporation, Piedmont.

FINDINGS OF FACT AND EVIDENCE SUPPORTING FINDINGS OF FACT

After thorough consideration of the entire record in the Piney Grove hearing, including the testimony, exhibits, and the applicable law, the Commission makes the following findings of fact with respect to Piney Grove:

1. Piney Grove is a privately owned utility company operating water systems and wastewater collection and treatment systems in Richland and Lexington County and is subject to the jurisdiction of the Commission pursuant to S.C. Code Ann. §58-5-10 et seq. Further, Piney Grove is currently operating under rates last approved by the PSC in Order No. 92-29 issued in Docket #90-807-W/S on January 24, 1992.

The evidence supporting this finding is contained in the petition filed by ORS, in the testimony of ORS witnesses Willie J. Morgan and D. Tracey Wilkes, and in prior Commission Orders in the docket files of the Commission, of which the Commission takes judicial notice.

2. Piney Grove is not providing adequate and proper service as required by S.C. Code Ann. §58-5-10 et seq.

Several issues were raised by the parties concerning the adequacy and propriety of the service provided by Piney Grove including billing, blockages, overflows, and compliance with laws and regulations. Testimony from witnesses revealed that consumers have valid complaints concerning billing issues, a lack of responsiveness from Piney Grove, improper disconnections, improper repairs, odors and improper treatment and discharges. Testimony further revealed that Piney Grove is operating in violation of state law.

A. Billing

The Commission finds that Piney Grove charges late fees in the amount of Five Dollars (\$5) and deposits in the amount of Ninety Dollars (\$90). The Commission further finds that Piney Grove requires customers to make payment within fifteen days of the bill's rendering. ORS Witness Smoak testified and presented evidence that Piney Grove is not billing its customers in compliance with Commission Rules and Regulations, and customers repeatedly testified that Piney Grove charges a late fee of Five Dollars (\$5). Transcript, Vol. 1 at 81-82 and 85. Evidence was presented that Piney Grove did not follow proper billing procedures by requiring customers to pay their bills within 15 days of the billing date. Several Piney Grove customers also testified that Piney Grove was collecting deposits in the amount of Ninety Dollars (\$90) and that such amount is improper and in excess of that allowed by regulation. Piney Grove suggested at the hearing that certain instances of over billing were corrected by crediting

customers' accounts; however, no evidence was presented as to the manner in which such credits were made. ORS also presented testimony demonstrating that Piney Grove has charged customers Drinking Water Fees in excess of that allowed by state law. Transcript, Vol. 1 at 215. Further, ORS presented evidence that improper billing continued after Piney Grove was notified by ORS that its billing practices were improper. Transcript, Vol. 1 at 143 – 145; Hearing Exhibit No. 4, MS-1; Transcript, Vol. 1 at 85.

B. Responsiveness

The Commission finds that Piney Grove consistently delays in responding or fails to respond to customers, ORS, DHEC and other appropriate entities. The Piney Grove consumers voiced numerous complaints regarding the unresponsiveness of Piney Grove. The customers raised issues of the Company failing to respond to blockages, backups and phone calls and refusing to investigate complaints. Piney Grove customers also revealed that Piney Grove failed to take responsibility for certain problems and required the customers to hire private plumbers, at their expense and without reimbursement, to investigate sewer problems ultimately determined to be the responsibility of the utility. The Commission also received evidence that the problems relating to the lack of responsiveness began after Piney Grove purchased the system. Mr. Tommy Looper testified at the night hearing that when C.W. Haynes operated the system, there were no problems related to responsiveness to resolving service issues; however, Mr. Looper testified that since the transfer of ownership to Piney Grove, these issues have arisen. Several customers also testified as to the difficulty contacting a Piney Grove representative such that the customers are required to “promise payment or threaten legal action” in order to get a response from the Company. Transcript, Vol. 1 at 16. Additionally, ORS Witness Wilkes addressed several

occasions in which DHEC had difficulty in receiving a response from Piney Grove regarding regulation violations and complaints.

C. Disconnections

The Commission finds that Piney Grove has disconnected customers without thirty (30) days notice to either the customer or to the appropriate state agencies. In reaching this finding, the Commission considered testimony from Ms. Crystal Cuffie who stated that she received a disconnection notice from Piney Grove that did not comply with Commission Rules and Regulations. Specifically, Ms. Cuffie testified that she received this notice on July 22, 2005, and the service was disconnected by August 5, 2005. Additionally, ORS Witness Morgan testified that ORS investigated several disconnections of Piney Grove customers on or about this time. For each of these disconnections, Piney Grove had not provided the customers, DHEC, the Commission or ORS the requisite thirty (30) day notice required by Commission regulations. Mr. Morgan further testified that these disconnections were the subject of an emergency petition filed by ORS in Docket No. 2005-220-W of which this Commission takes judicial notice.

D. Odors

The Commission finds that Piney Grove has operated its system in a manner which fails to minimize the presence of odors emanating from the treatment facility. During the night hearing, the Commission heard several complaints regarding unacceptable odors in the subdivisions served by Piney Grove. The testimony reflected the detection of strong sewer odors at an unacceptable distance from the facility and from the creek into which the treated wastewater is discharged. The residents testified that the odor increases in the summer and noted an increased problem with mosquitoes and other insects. DHEC documents submitted at the

hearing evidence that odors were often a primary or contributing complaint when customers called DHEC after receiving no response from Piney Grove.

E. Repairs and Maintenance

The Commission finds that Piney Grove has failed to repair or has inadequately repaired its wastewater treatment and collection system. Several residents testified before the Commission as to collapsed lines and blockages which severely impact the service provided. Customers also complained of yards being dug up and not repaired. ORS Witness Morgan testified as to several instances of repairs and maintenance that need to be made such as repairing a pump to the wet well, correcting several sinkholes in customers' yards, and removing excessive debris and vegetation from the treatment facility. Transcript, Vol. 1 at 149-150. Additionally, ORS Witness Wilkes testified as to a number of complaints received by DHEC in which Piney Grove delayed or failed in making repairs or made repairs which failed to resolve the problem.

F. Improper Treatment

The Commission finds that Piney Grove has consistently failed to properly treat wastewater and has illegally released untreated effluent into the environment. Additionally, the lack of maintenance to the collection facility has resulted in blockages and overflows causing untreated wastewater to be discharged into the streets and storm drains of the various subdivisions, creating health hazards for the very communities Piney Grove is designated to serve. ORS Witness Wilkes presented several exhibits that indicated sanitary sewer overflows resulting in discharges into the storm drain system. Hearing Exhibit 17. Further, ORS Witness Morgan presented testimony that Piney Grove did not have an operator for its facility serving the Lloydwood subdivision, as required by Piney Grove's permit and South Carolina law, and, as a result, untreated wastewater was released into a neighborhood creek where children often play.

Further, as testified by DHEC Witness Proctor, DHEC had to utilize state money to employ an operator to minimize the amount of contaminants being discharged from the treatment facility and levied fines against Piney Grove in excess of Four Million Dollars (\$4,000,000) as a result of Piney Grove's improper treatment. Transcript, Vol. 2 at 119.

3. Piedmont currently has a performance bond on file with the Commission for wastewater service in the amount of One Hundred Twenty-five Thousand Dollars (\$125,000).

The Commission received evidence that Mr. and Mrs. Williams, officers for Piedmont acting in their personal capacity, executed a personal financial statement as surety on the performance bond ordered in Commission Docket No. 2000-606-W/S. Further, as stated earlier, the Commission takes judicial notice of its files in dockets related to Piedmont.

4. Piney Grove has consented to the appointment of a receiver for the Franklin Park subdivision facility and the Albene Park Subdivision facility. Piney Grove presented evidence detailing the agreement in which Richland County agreed to operate these systems as a temporary receiver. Pursuant to the agreement, the temporary receivership is effective for up to one year prior to which Richland County may withdraw as a receiver after a one-week notice to the parties. Hearing Exhibit 13.

CONCLUSIONS OF LAW

Based upon the findings of fact as contained herein and the record of this proceeding, the Commission makes the following conclusions of law:

1. The Commission concludes that Piney Grove is improperly billing its customers in violation of regulations governing wastewater utilities. Commission Regulation 26 S.C. Code Regs. 103-532.2 provides that a "maximum of one and one-half percent (1 and 1/2 %) be added

to any unpaid balance not paid within 25 days of the billing date to cover the cost of collection and carrying accounts in arrears.” (Emphasis added). Additionally, 26 S.C. Code Regs. 103-531.1.A provides that a:

maximum deposit may be required up to an amount equal to an estimated two (2) months (60 days) bill for a new customer or a maximum deposit may be required up to an amount equal to the total actual bills of the highest two (2) consecutive months based on the experience of the preceding twelve (12) months or portion of the year or portion of a year, if on a seasonal basis. (Emphasis added)

Further, 26 S.C. Code Regs 103-533.2 provides:

[i]f the utility has inadvertently overcharged a customer as a result of a misapplied schedule, an error in reading the meter, a skipped meter reading, or any other human or machine error, except as provided in 1 of this rule, the utility shall, at the customer's option, credit or refund the excess amount paid by that customer or credit the amount billed.

Based upon testimony and evidence provided at the night hearing and the merits hearing, the Commission finds that Piney Grove is improperly billing its customers and is charging excessive late fees and deposits. Pursuant to Commission Regulations and based upon the approved rate structure, the maximum amount Piney Grove is allowed to charge its customers is a late fee of Twenty-three Cents (\$0.23) for a one month delinquency and a maximum deposit of Thirty Dollars (\$30). Piney Grove has knowingly and willfully continued to bill Five Dollars (\$5) for late fees and Ninety Dollars (\$90) for deposits even after ORS notified it of this impropriety. Hearing Exhibit No. 9. Such practices are unacceptable to this Commission, and we find that Piney Grove has violated these requirements.

2. The Commission concludes the responsiveness of Piney Grove to its customers is unacceptable. Commission Regulations require that complaints concerning the charges, practices, facilities, or service of the utility be investigated promptly and thoroughly. 26 S.C. Code Regs. 103-516 and 103-538.A. The Commission has serious concerns regarding Piney Grove’s refusal to be

accountable for problems in its system and its failure to respond to its customers. Because Piney Grove's service is regulated by this Commission, it is required to follow its rules and regulations. Piney Grove has ignored this Commission and its customers and has exhibited a flagrant disregard for state laws governing the operation of utilities.

3. The Commission finds that the disconnection practices of Piney Grove are in violation of Commission regulation 103-535.1 which provides:

Before any sewerage service may be discontinued, the utility must give thirty (30) days written notice to the customer, by certified mail, unless R.103-535.A is applicable, with copies forwarded to the appropriate county health department and the South Carolina Public Service Commission. At the expiration of the thirty (30) day period, the utility shall post a second notice by certified mail to the customer advising that in not less than 10 days nor more than 30 days, his service may be discontinued at any time without further notice.

By failing to comply with the Commission's regulations regarding proper notice to both the customer and applicable state agencies, Piney Grove has violated disconnection regulations and has knowingly and willfully continued to do so after being notified of its violations. The Commission finds such actions objectionable and contrary to public policy.

4. The odors emanating from the wastewater treatment facility are unacceptable pursuant to 26 S.C. Code Regs. 103-570.A which provides that "[e]ach utility shall provide sewerage service insofar as practicable free from objectionable odors." Sewerage utilities subject to regulation by the Commission are required to reasonably minimize objectionable odors, and the Commission finds that Piney Grove is not attempting to reduce such problems as required.

5. The Commission concludes that Piney Grove's noncompliance with state law and the resulting effects of that noncompliance is appalling and is in direct violation of the regulations of this Commission. Piney Grove failed to employ a certified operator as required by

DHEC regulations which led to harmful and atrocious discharges affecting entire communities. 26 S.C. Code Regs. 103-570.A. requires all utilities to “comply with all laws and regulations of State and local agencies pertaining to sewerage service.” Piney Grove habitually disregarded the authority of both DHEC and this Commission and the ensuing consequences have led to an unacceptable impact on the environment, the finances, and the health of South Carolina and its citizens.

6. Piney Grove’s failure to provide adequate and proper service has been willful and has continued for an unreasonable length of time.

Several customers testified before the Commission that they have experienced problems with the systems operated by Piney Grove for several years. ORS Witness Smoak testified that she began experiencing problems with the sewer system in May 2003. During the night hearing, several residents testified that they had experienced problems for up to fifteen to twenty years. The Commission finds the conditions endured by these customers have existed for an unreasonable length of time by any standards.

Additionally, as explained supra, Piney Grove has continued to operate its systems in violation of state law after notification by both ORS and DHEC. “A willful act is defined as one ‘done voluntarily and intentionally with the specific intent to do something the law forbids, or with the specific intent to fail to do something the law requires to be done; that is to say with bad purpose either to disobey or disregard the law.’” State v. Bevilacqua, 316 S.C. 122, 129, 447 S.E.2d 213, 217 (Ct.App.1994) (citing Spartanburg County Dep’t of Soc. Serv. v. Padgett, 296 S.C. 79, 82-3, 370 S.E.2d 872, 874 (1988)). By continuing to operate its facilities and conduct its billing in violation of this Commission’s regulation after notification of the unlawfulness, Piney Grove has demonstrated that it specifically intended not to comply with the directives and

requirements of this Commission. The Commission finds such misconduct to be willful and without excuse.

7. The various water and wastewater utilities owned by Mr. Reece Williams were consolidated under Piedmont in Docket No. 2000-588-W at the request of Mr. Williams; therefore, the bond held by Piedmont covers Piney Grove.

ORS requested that the Commission take judicial notice of its files regarding Piney Grove, specifically, Docket No. 2000-588-W. In that Docket, Piedmont Water Company, Inc. filed an application requesting approval to consolidate the stock of several utilities including Piney Grove. In the direct testimony filed in that proceeding, DHEC raised a concern that the “merger” of these systems could result in some compliance problems. Mr. Williams, on behalf of Piney Grove, filed rebuttal testimony as to this assertion by DHEC which stated that “the object of this petition is not to ‘merge’ these companies into one company” but rather “the proposed consolidation is to make more efficient the administrative operation of these separate corporations, all of which will retain their separate corporate identity.”

In our Order No. 2001-761, this Commission approved the consolidation “under certain conditions.” The Commission did not require that certain conditions be met prior to the consolidation of these utilities; rather, we only required that those conditions be met in the future for the consolidation to be considered proper. While several of the conditions set forth in that docket were not met, the Order previously issued by this Commission clearly allowed such a consolidation, and indicated that the conditions were not a prerequisite. As evidence of this, the Commission notes the fourth condition set forth in that order which provides “all water and sewer systems under Piedmont must become compliant with all applicable and pertinent DHEC regulations,” indicating this requirement is to be satisfied after consolidation. Further, the fifth

condition prohibits Piedmont from acquiring any further systems – undoubtedly intended to be a future condition that could not have been satisfied prior to consolidation. See Order No. 2001-761 at P. 5. Clearly, the Order envisioned the consolidation of these systems prior to the satisfaction of the remaining conditions. Additionally, the Commission has previously accepted the \$125,000 bond held by Piedmont as sufficient to cover Piney Grove and the associated utilities and has not objected to such a bond.

Finally, Piney Grove, by its own actions, has conceded to this interpretation by failing to file a bond to cover its systems independently of Piedmont and purporting to rely upon the bond filed by Piedmont. Arguing that the Order does not allow Piedmont to cover the operations of the associated utilities suggests Piney Grove and Piedmont knowingly misled the Commission and refused to comply with Commission regulations. Such a result would be detrimental to Piney Grove because it would mean that Piney Grove has willfully and intentionally failed to file its required performance bond.

As previously stated, the Commission had no intention to require that Piney Grove meet the conditions set forth in the Order prior to consolidation; therefore, the Commission found the consolidation and the ensuing posting of the bond for Piney Grove was acceptable. The Commission also reasonably relied upon this action such that it did not further require Piney Grove to file an independent bond. Piedmont's filing of the bond was intended to cover the services of Piney Grove and to assume otherwise would result in an outcome detrimental to this Commission, to Piney Grove's customers, and to the state of South Carolina. Therefore, the Commission finds that Piedmont's bond is applicable to and covers the operations of Piney Grove.

8. The Commission concludes that due to Piney Grove's unwillingness to take the necessary steps to provide adequate and proper service to its customers, the full amount of Piedmont's bond should be revoked. S.C. Code Ann. §58-5-720 provides that the "commission has the right, upon notice and hearing, to declare all or any part of the bond or certificate of deposit forfeited upon a determination by the commission that the utility failed to provide service without just cause or excuse and that this failure has continued for an unreasonable length of time." The evidence reflects the problems relating to Piney Grove's systems have been ongoing for several years. While other utilities may have suffered similar difficulties prior to Piney Grove taking over, Piney Grove cannot use others' past wrongs to justify its present sins. When Piney Grove petitioned the Commission for transfer of ownership of these systems, it not only acquired the facilities and the assets, but also the responsibility to maintain and operate these systems in compliance with state law and to take the steps necessary to put the utility in a position to do so. The evidence before the Commission clearly indicates Piney Grove has failed to accomplish this requirement and, thus, has failed to satisfy the assertions made to this Commission in previous dockets.

9. The Commission finds the funds derived from the bond revocation may appropriately be used in a fashion to provide adequate and proper service to the customers of Piney Grove. The terms of the Performance Bond executed by Mr. and Mrs. Williams provides that the bond "is to cover any and all liability which may arise as a result of the principal failing to provide adequate and sufficient service within its service area." As a result of the poor operations of the Piney Grove facilities, the system has fallen into disrepair and is currently not providing adequate and proper service. Therefore, the Commission has determined that these

funds may be used for any reasonable purpose to provide adequate and proper service to the Piney Grove customers.

10. The Commission finds that, as a result of Piney Grove's continued disregard of Commission regulations, even after notice of such violations by ORS, Piney Grove has willfully failed to provide adequate and proper service to its customers. In the event Piney Grove is unable to provide such service to its customers within a reasonable amount of time, the Commission finds that the levying of fines and penalties is appropriate. S.C. Code Ann. §58-5-710 provides:

If the commission upon hearing determines that the service is not being provided, it shall issue an order requiring the utility to take steps as are necessary to the provision of the service within a reasonable time as prescribed by the commission. Upon failure of the utility to provide the service within the time prescribed without cause or excuse, as shall be determined by the commission, the commission shall impose a penalty or fine against the utility in an amount not less than one hundred dollars per day but not more than one thousand dollars per day. Each day the failure or noncompliance continues shall be considered a separate and distinct breach or violation of the order.

The funds received from the revocation of the performance bond are required to be utilized to maintain, repair, or operate the system in such a manner as to provide adequate and proper service to its customers. If, after utilizing these funds for such purposes and after ninety (90) days from the issuance of this order, Piney Grove continues to be unable to provide adequate and proper service without cause or excuse, the Commission shall impose a fine against the utility in the amount of One Thousand Dollars (\$1,000) per day. Each day the failure or noncompliance continues shall be considered a separate and distinct breach or violation of this order.

11. ORS should be granted the ability to petition the Circuit Court for a receiver of the Piney Grove systems. ORS's petition requested that the Commission grant it the ability to petition the Circuit Court for appointment of a receiver in that the enabling legislation, 2004 S.C. Acts 175, did not clearly endow it with such authority. During the hearing, Piney Grove consented to this request and specifically asked the Commission to give ORS "the ability or authority to go to Circuit Court to get" such a receiver.

The Commission finds that based upon the above findings that Piney Grove has willfully failed to provide adequate and proper service for an unreasonable length of time. Further, pursuant to 2004 S.C. Acts 175, ORS is the Commission's successor in interest, and ORS should be granted the authority to petition the Circuit Court for appointment of a receiver for Piney Grove pursuant to S.C. Code Ann. §58-5-730 (1976).

12. As the bond on file for Piedmont has been revoked pursuant to this order, the other systems consolidated pursuant to Docket No. 2000-606-W/S are required to post individual bonds. 26 S.C. Code Regs 103-512.3 provides "prior to operating, maintaining, acquiring, expanding or improving any utility system, for which Commission approval is required, the utility shall have on file with the Commission a performance bond with sufficient surety using a format prescribed by the Commission." As Piedmont is required to maintain a bond on file with sufficient surety to cover the operations of its systems, and the Commission has revoked the present performance bond, the Commission finds that the public interest would best be served by the remaining systems posting individual performance bonds of sufficient worth within thirty (30) days of this order. Additionally, given the monetary penalties exacted upon Piney Grove and its related companies by DHEC, the Commission finds that a personal surety is insufficient

to cover these additional systems and requires the systems consolidated under Piedmont to file a bond as otherwise allowed.

IT IS THEREFORE ORDERED THAT:

1. The entire bond on file with the Commission in the amount of One Hundred Twenty-five Thousand Dollars (\$125,000) covering the operations of Piedmont Water Company, Inc. is hereby revoked.
2. Within thirty (30) days, Piedmont shall submit the full amount of the bond One Hundred Twenty-five Thousand Dollars (\$125,000) to ORS to be placed in a secure, separate account established with the State Treasurer.
3. ORS may utilize and distribute the funds derived from the bond in a manner commensurate with providing adequate and proper service to the Piney Grove customers.
4. Piney Grove or a duly appointed receiver shall make such repairs and maintenance as necessary to operate the system in such a manner as to provide adequate and proper service.
5. Piney Grove shall submit to ORS a copy of all books and records detailing its operations and accounting within thirty (30) days of this Order.
6. Piney Grove or a duly appointed receiver shall immediately commence appropriate billing and deposit practices.
7. Piney Grove or a duly appointed receiver shall refund any over-collections on file with Piney Grove to its customers within thirty (30) days of this Order. ORS may utilize the funds derived from the performance bond to make such refunds. Piney Grove shall provide documentation to ORS detailing the refunds made.

8. Piney Grove shall provide adequate and proper service to its customers within ninety (90) days or will be subject to a fine of One Thousand Dollars (\$1,000) per day until such service is provided unless good cause or excuse is shown.

9. ORS is hereby granted the authority to petition the Circuit Court of South Carolina for appointment of a receiver of the Piney Grove facility in the Lloydwood subdivision.

10. In the event the current receivership agreement for the Franklin Park and Albene Park subdivisions lapses or the current receiver withdraws from operating the systems, the Commission grants ORS the authority to petition the Circuit Court of South Carolina for appointment of a receiver for those facilities.

11. This Order shall remain in full force and effect until further Order of the Commission.

Randy Mitchell, Chairman

ATTEST:

O'Neil Hamilton, Vice Chairman